

EXHIBIT 8
Part 2 of 2

1 **PRESIDING COMMISSIONER DAVIS:** Montenegro stated he
2 was involved in a fight with an unknown person who was a
3 female, he was sitting in a bar with friends, the
4 subject reports that he, that his friend, shot the
5 victim when the subject's friend saw the victim was
6 going to kill the subject. Montenegro denies that he
7 killed the victim. Montenegro states that his friend
8 killed the person, and he is angry that authorities did
9 not take any action against this person who is
10 reportedly the culprit and is now living in Mexico, in
11 spite that he has given information to the authorities.
12 Montenegro does not take any responsibility for the
13 incident, but states that he deals with the situation
14 differently, by walking away from situations, from the
15 situations again. Montenegro does have, does --
16 Montenegro does not have any remorse for the incident.
17 Montenegro reports that he feels bad that a life was
18 lost in the incident, but reports that the victim would
19 have killed him if the victim was not shot. Montenegro
20 states that initially he took the responsibility for the
21 incident, as he wanted to save his friend, who
22 reportedly, was trying to save the subject, but now
23 feels that he should not have taken responsibility for
24 the crime. And it is clear that there are conflicting
25 reports within the same Board Report, so we'll make sure
26 that we cover all of those, and, as always, if your
27 client would like to change his mind at some point in

1 time and comment to the Board about any of this, we're
2 certainly more than willing to hear him; however, we
3 understand and appreciate that he has an absolute right
4 not to do so.

5 **ATTORNEY SPARKS:** I think when I made my statement
6 about there might be another version is that he was
7 interviewed the last time concerning the crime by the
8 Board of Parole Hearings, and that's where he made a
9 sworn statement under oath, and that's what he would be
10 sticking to, since they don't send me but the summary of
11 the decision, and I didn't go through the C-File to look
12 at that, because after the interview, that's what he was
13 saying to me. That would probably be where his version
14 would be today, that in fact the official statement that
15 he made to the Board of Parole Hearings, at his initial
16 Hearing, would be the one that he would stick with.
17 That's what he informed to me the other day, just
18 recently, with the help of the interpreter. I'm not
19 sure what that one says since I haven't read it, but
20 that would be the one.

21 **PRESIDING COMMISSIONER DAVIS:** We'll pull the
22 transcript and take a look at it. In the interim,
23 however, we'll go through and talk about -- in terms of
24 prior arrests, there are no, there's no indication of a
25 juvenile arrest. And in terms of adult arrests, the
26 only arrest was in 5 of 1992 for driving under the
27 influence. At that time he used the name of Santiago

13

1 Garcia. Do you recall the arrest in 1992,
2 Mr. Montenegro?

3 INMATE MONTENEGRO THROUGH INTERPRETER: Nothing that
4 came to the Board. I told you that I haven't been
5 arrested since '91.

6 PRESIDING COMMISSIONER DAVIS: Okay, so the arrest
7 in 1992 using the name of Santiago Garcia is not you?

8 INMATE MONTENEGRO THROUGH INTERPRETER: No.

9 PRESIDING COMMISSIONER DAVIS: Okay. Personal
10 Factors indicates that you were born in Mexico, you're
11 not married, and have no children? And you are, you are
12 one of six children. In terms of employment, you were
13 employed in a variety of positions including filleting
14 fish; working in, as a fieldworker for harvesting grape
15 crops?

16 INMATE MONTENEGRO THROUGH INTERPRETER: Yes.

17 PRESIDING COMMISSIONER DAVIS: I find that I have to
18 go through several places to try and find out more about
19 you in this report because it's not very consolidated.
20 You went through three years of grade school in Mexico?

21 INMATE MONTENEGRO THROUGH INTERPRETER: Yes.

22 PRESIDING COMMISSIONER DAVIS: Did you, was that the
23 extent of your formal education as a young person?

24 INMATE MONTENEGRO THROUGH INTERPRETER: Yes.

25 PRESIDING COMMISSIONER DAVIS: You were born and
26 raised in Mexico, you came to the United States
27 illegally in 1979?

1 INMATE MONTENEGRO THROUGH INTERPRETER: Yes.

2 PRESIDING COMMISSIONER DAVIS: And you were 23 at
3 that time, and you came with one of your brothers?

4 INMATE MONTENEGRO: Si.

5 PRESIDING COMMISSIONER DAVIS: And you would go back
6 and forth to your home, back into the United States
7 working?

8 INMATE MONTENEGRO THROUGH INTERPRETER: Yes.

9 PRESIDING COMMISSIONER DAVIS: Do you still keep in
10 contact with your family?

11 INMATE MONTENEGRO THROUGH INTERPRETER: Yes.

12 PRESIDING COMMISSIONER DAVIS: So you do have mostly
13 cards and letters and so forth?

14 INMATE MONTENEGRO THROUGH INTERPRETER: Yes.

15 PRESIDING COMMISSIONER DAVIS: Okay. It indicates
16 that you began drinking beer at the age of 19, and would
17 drink three or four beers a day, that you really did not
18 drink to, to excess at any time?

19 INMATE MONTENEGRO THROUGH INTERPRETER: No.

20 PRESIDING COMMISSIONER DAVIS: And in this, this is
21 out of the psych, this is out of the 2002 psychiatric
22 report, and they also, they also indicate a, an arrest
23 for driving under the influence of alcohol in the
24 United States. Were you ever arrested for driving under
25 the influence of alcohol?

26 INMATE MONTENEGRO THROUGH INTERPRETER: That was
27 around (inaudible).

15

1 PRESIDING COMMISSIONER DAVIS: Okay. Did you use
2 your correct name at that time?

3 INMATE MONTENEGRO TRHOUGH INTERPRETER: No.

4 PRESIDING COMMISSIONER DAVIS: What name did you
5 use?

6 INMATE MONTENEGRO TRHOUGH INTERPRETER: I think it
7 was Martinez.

8 PRESIDING COMMISSIONER DAVIS: Okay. Have you ever
9 been arrested other than that? For anything?

10 INMATE MONTENEGRO TRHOUGH INTERPRETER: No.

11 PRESIDING COMMISSIONER DAVIS: Okay. You used
12 marijuana for about three or four months.

13 INMATE MONTENEGRO TRHOUGH INTERPRETER: Yes.

14 PRESIDING COMMISSIONER DAVIS: Okay. You never
15 served in the Armed Forces?

16 INMATE MONTENEGRO TRHOUGH INTERPRETER: No.

17 PRESIDING COMMISSIONER DAVIS: Let's see, this
18 indicates that you went up to five years in school in
19 Mexico. It's going back to the probation officer's
20 report from some time back. Did you, was it, did you do
21 all of your schooling in Mexico?

22 INMATE MONTENEGRO TRHOUGH INTERPRETER: Yes.

23 PRESIDING COMMISSIONER DAVIS: And it seems pretty
24 consistent in terms of drinking and so forth. So, did,
25 how many members of your family came north with you?
26 Just your brother?

27 INMATE MONTENEGRO TRHOUGH INTERPRETER: Excuse me?

16

1 PRESIDING COMMISSIONER DAVIS: How many people came
2 up to the United States with you? Just your brother?

3 INMATE MONTENEGRO THROUGH INTERPRETER: Also one
4 sister and my parents did.

5 PRESIDING COMMISSIONER DAVIS: Okay, so they all
6 came up?

7 INMATE MONTENEGRO THROUGH INTERPRETER: Yes.

8 PRESIDING COMMISSIONER DAVIS: And you stay in
9 contact with them as well?

10 INMATE MONTENEGRO THROUGH INTERPRETER: (Inaudible).

11 PRESIDING COMMISSIONER DAVIS: Would you describe
12 your, your family life as being fairly normal?

13 INMATE MONTENEGRO THROUGH INTERPRETER: Yes.

14 PRESIDING COMMISSIONER DAVIS: Anything unusual, no
15 abuse ...

16 INMATE MONTENEGRO THROUGH INTERPRETER: No.

17 PRESIDING COMMISSIONER DAVIS: Any alcoholism?

18 INMATE MONTENEGRO THROUGH INTERPRETER: No. They do
19 drink, but a little.

20 PRESIDING COMMISSIONER DAVIS: All right, all the
21 other members of your family doing well, nobody's had a
22 problem with law enforcement?

23 INMATE MONTENEGRO THROUGH INTERPRETER: No.

24 PRESIDING COMMISSIONER DAVIS: Okay. Good. Is
25 there anything we haven't talk about regarding your
26 prior history, coming into the institution, that is,
27 your social history, your schooling, family life,

17

1 relations with family or friends, et cetera, that you
2 think is important for the Panel to understand, that we
3 haven't discussed so far?

4 **INMATE MONTENEGRO THROUGH INTERPRETER:** No.

5 **PRESIDING COMMISSIONER DAVIS:** All right.

6 Commissioner, do you have any questions?

7 **DEPUTY COMMISSIONER BLONIEN:** I don't.

8 **PRESIDING COMMISSIONER DAVIS:** Mr. Montenegro, if
9 you think of something as we proceed, if something else
10 comes to mind that you think is important that we
11 understand, please take the opportunity to just let us
12 know what that is. All right. And I'll ask you to turn
13 your attention to me. Commissioner Blonien.

14 **DEPUTY COMMISSIONER BLONIEN:** Mr. Montenegro, it's
15 my job to go over what you do in the institution since
16 your last hearing. I'm going to go over your psych
17 report -- and I read your C-File, I've read the Board
18 report, and I saw you did a review of your C-File, so if
19 I forget anything or miss anything at the end of my
20 presentation, you can -- we'll have a discussion. So,
21 your last hearing was June 18th, of 2002, and the
22 decision was for a four year denial, and the Panel
23 recommended that you become and remain
24 disciplinary-free, upgrade vocationally and
25 educationally, and participate in self-help. So, your
26 classification score is 19, and your custody level is
27 medium A, and 19 is as low as possible for a lifer

18

1 inmate. You, your counselor, Counselor Studebaker
2 (phonetic), completed the report in June of '06, and
3 Dr. William Garmard, G-A-R-M-A-R-D, completed his psych
4 report in March 29th of '02. So, in, in looking at what
5 you've done in the institution, you have remained
6 disciplinary-free, you only have one 115, and that was
7 in 2002, right before your last parole hearing. You did
8 have a 128 on 3/8/04 for contraband. What did you have?

9 **INMATE MONTENEGRO TRHOUGH INTERPRETER:** A 128,
10 probably, a classification, but I didn't go to work.

11 **DEPUTY COMMISSIONER BLONIEN:** Oh. It talks about a
12 single-edge razor blade, box cutter, inside his assigned
13 locker.

14 **INMATE MONTENEGRO TRHOUGH INTERPRETER:** That's true;
15 that's another one.

16 **DEPUTY COMMISSIONER BLONIEN:** And then you have one,
17 3/5/02, and that was about reporting to work, and that
18 since you did not get a shower after working, you would
19 not report to work until you showered, is what you said.
20 You got a 128 for that. In total, you have one, two,
21 three, six 128s, which are minor. So when we talk about
22 education, you're talking to the Commissioner, and it
23 was unclear to me whether you had three years of
24 education in Mexico or five years of education.

25 **INMATE MONTENEGRO TRHOUGH INTERPRETER:** As I recall,
26 it was only three years that I went. I went to school
27 here for about five or six years.

1 DEPUTY COMMISSIONER BLONIEN: And you're in a
2 difficult position here because you've been terminated
3 from education, they feel you've worked really hard, but
4 you're as far as you can go. And you haven't attained a
5 sixth grade reading level, so you're not eligible for
6 Vocational Training programs, correct? You know that?

7 INMATE MONTENEGRO THROUGH INTERPRETER: Yes.

8 DEPUTY COMMISSIONER BLONIEN: So, before you came in
9 here, you were a fish cutter and a mushroom farmer, but
10 you haven't really been able to pick up a vocation here
11 that translates into the community easily. But, you are
12 a worker. You're a very good worker, and since your
13 last hearing, you've been a Porter, and you work in
14 Waste Management now. And I looked at your reports from
15 your supervisor, and every single one since your last
16 hearing says you are excellent in every category, you're
17 on time, you do the job, you're enthusiastic, you're
18 respectful to staff, to other inmates -- so do you enjoy
19 this job?

20 INMATE MONTENEGRO THROUGH INTERPRETER: Enjoy the
21 job, yes.

22 DEPUTY COMMISSIONER BLONIEN: And did you do
23 Recycling too?

24 INMATE MONTENEGRO THROUGH INTERPRETER: Yes.

25 DEPUTY COMMISSIONER BLONIEN: So tell me about that.
26 Tell me about your job.

27 INMATE MONTENEGRO THROUGH INTERPRETER: What I do

20

1 there, is I clean up the, the lard there, clean the cans
2 where they empty the garbage, somebody asks me, asks me
3 to clean an office, to wax it.

4 **DEPUTY COMMISSIONER BLONIEN:** So, that's a skill
5 that translates into the community, whether you go to
6 California or Mexico. Now you do have a U.S./INS hold
7 on you, correct?

8 **INMATE MONTENEGRO THROUGH INTERPRETER:** Yes.

9 **DEPUTY COMMISSIONER BLONIEN:** And after we talk
10 about what you've done in the institution, we're going
11 to talk about your parole plans. You're also very
12 active in AA, and there's chronos in there from your
13 last hearing covering the years '02, '03, '04 -- are you
14 still in AA?

15 **INMATE MONTENEGRO THROUGH INTERPRETER:** I'm
16 attending not at this moment, because there's been a lot
17 of lockdown.

18 **DEPUTY COMMISSIONER BLONIEN:** Yeah. And when you
19 attend, do you attend AA in Spanish?

20 **INMATE MONTENEGRO THROUGH INTERPRETER:** Yes.

21 **DEPUTY COMMISSIONER BLONIEN:** And I noticed on one
22 of the chronos your sponsor says that you are fully
23 participating, and you're very enthusiastic.

24 **INMATE MONTENEGRO THROUGH INTERPRETER:** Yes.

25 **DEPUTY COMMISSIONER BLONIEN:** So you've worked
26 through the steps?

27 **INMATE MONTENEGRO THROUGH INTERPRETER:** Not yet, I

1 make some mistakes.

2 **DEPUTY COMMISSIONER BLONIEN:** So, when Commissioner
3 Davis was reading about your crime, and about your
4 history, you said you didn't have a problem with
5 alcohol, that you were a social drinker, but the crime,
6 you know, was committed around a bar atmosphere, and I
7 know you're not talking about the crime, so I don't know
8 how much you were drinking that night, but one of the
9 concerns of the Panel would be if you were in a like
10 situation in a bar in a social atmosphere, if you would
11 have the same bad judgment, and what you've learned
12 inside the institution that would help you make good
13 decisions if you were released to the community. And
14 I'd like you to tell me what you've learned in that
15 area.

16 **INMATE MONTENEGRO THROUGH INTERPRETER:** I didn't
17 understand that.

18 **DEPUTY COMMISSIONER BLONIEN:** We're worried about
19 the circumstances of your crime involved in a bar area.
20 So if released, what have you learned in prison that
21 would keep you from making bad decisions in the
22 community?

23 **INMATE MONTENEGRO THROUGH INTERPRETER:** Well, the
24 time I've been here has taught me -- biggest mistakes I
25 made in my life. And that is attending -- I believe
26 that if I were given a date, a release date, one day
27 that I would never go back to one of those.

1 DEPUTY COMMISSIONER BLONIEN: And is there -- like
2 going through AA, people talk about the steps. And they
3 talk about how the steps help them make better
4 decisions. So, since he hasn't worked through any
5 steps, what's going to help him?

6 INMATE MONTENEGRO THROUGH INTERPRETER: What would
7 help me is to hear what these people have gone through.

8 DEPUTY COMMISSIONER BLONIEN: I know in this
9 institution, there's other programs available, like
10 anger management. Has he tried to go to any of those
11 programs?

12 INMATE MONTENEGRO THROUGH INTERPRETER: I know I
13 committed a violent crime. That was in (inaudible).

14 DEPUTY COMMISSIONER BLONIEN: I would think there
15 was a lot of anger involved in this crime.

16 INMATE MONTENEGRO THROUGH INTERPRETER: (Inaudible).

17 DEPUTY COMMISSIONER BLONIEN: He, does he read books
18 in Spanish to himself?

19 INMATE MONTENEGRO THROUGH INTERPRETER: Very little,
20 not yet.

21 DEPUTY COMMISSIONER BLONIEN: Do you know how to
22 read in Spanish?

23 INMATE MONTENEGRO THROUGH INTERPRETER: (Inaudible).

24 DEPUTY COMMISSIONER BLONIEN: A little? That could
25 be a problem. How little can you read?

26 INMATE MONTENEGRO THROUGH INTERPRETER: To read like
27 this, take about five minutes.

1 DEPUTY COMMISSIONER BLONNIEN: That, that is
2 difficult. When you were talking to the psych in '02,
3 Dr. Garmard, he stated that you have no mental health
4 issues, you have no mental illness, that you're lucky
5 enough to have no physical illnesses, he doesn't note
6 any drug abuse or alcohol abuse by history or in
7 remission. And he gives you what we call a Global
8 Assessment Functioning score of 85, which means that
9 you're an extremely high functioning inmate and you
10 would be a highly functioning individual in the
11 community if released. In talking -- he talked to you
12 right before you got this 115, and he states that the
13 inmate has not received any 115 violations for violent
14 behavior, and the one 115 that you did have was for
15 refusing to work, which you did. "Therefore, it is felt
16 that he would pose a less than average risk for violence
17 when compared with this (inaudible) inmate population.
18 If released to the community, his violence potential is
19 estimated to be no higher than that of the average
20 citizen in the community." And this is based on the no
21 evidence of previous violent behavior or any violent
22 behavior since your offense. "Although he did flee the
23 scene of the crime and evaded arrest for six years and
24 formerly appeared to lack remorse for his crime, he has
25 since accepted full responsibility." And there, he's
26 alluding to the fact that when he was talking to you
27 about the crime, that during the conversation, the

1 doctor states that you changed your story and
2 admitted -- he said, the doctor said, "However, when
3 more of his own words were quoted back to him, such as
4 his early admission that the gun was his, that he got
5 the gun out of the trunk of his friend's car, that he
6 threw the gun in the grass after the shooting when he
7 fled the scene, he suddenly admitted shooting the
8 victim. When asked why he denied that it had to do with
9 jealousy over the woman, he simply said that he shot the
10 victim after the victim made a verbal threat against
11 him. He then admitted that his mistake was to shot
12 another man over a verbal threat and said he regrets
13 everything that he did. He told about how he had lied
14 in the past, saying that one friend shot the victim in
15 order to protect the inmate from being shot or that his
16 other friend, Pedro, was to be blame, not him. The
17 inmate's sudden honesty in the middle of the BPT
18 evaluation is rare, and he is to be commended for taking
19 full responsibility for his actions." When, we're not
20 going to talk about the crime, but I did want to ask you
21 about remorse for the victim. Do you have a comment?

22 INMATE MONTENEGRO THROUGH INTERPRETER: (Inaudible.)

23 DEPUTY COMMISSIONER BLONIEN: Do you ever think
24 about the victim's family?

25 INMATE MONTENEGRO THROUGH INTERPRETER: Yes.

26 DEPUTY COMMISSIONER BLONIEN: In going over what
27 you've been doing in the institution, have I covered

1 everything? So, a typical day for you, you go to work,
2 correct?

3 INMATE MONTENEGRO TRHOUGH INTERPRETER: Yes.

4 DEPUTY COMMISSIONER BLONIEN: My recorder can't
5 (inaudible). Do you work out?

6 INMATE MONTENEGRO TRHOUGH INTERPRETER: A little.

7 DEPUTY COMMISSIONER BLONIEN: Do you go to church?

8 INMATE MONTENEGRO TRHOUGH INTERPRETER: Not really.

9 DEPUTY COMMISSIONER BLONIEN: Do you, what do you
10 do?

11 INMATE MONTENEGRO TRHOUGH INTERPRETER: I go to work
12 out after working, I go use the shower, wait for dinner.

13 DEPUTY COMMISSIONER BLONIEN: I want to talk to you
14 about your parole plans. I don't see any letters from
15 your family.

16 INMATE MONTENEGRO TRHOUGH INTERPRETER: (Inaudible).

17 DEPUTY COMMISSIONER BLONIEN: The letters have to be
18 new because four years is a long time and circumstances
19 change. So, if you were deported to Mexico, where would
20 you go?

21 INMATE MONTENEGRO TRHOUGH INTERPRETER: In Mexico,
22 where my parents have a house in Mexico. And they told
23 me that I could live there as long as I wanted.

24 DEPUTY COMMISSIONER BLONIEN: And do your parents
25 have a ranch?

26 INMATE MONTENEGRO TRHOUGH INTERPRETER: No, they
27 have a home, but not a ranch.

1 DEPUTY COMMISSIONER BLONIEN: And what city?

2 INMATE MONTENEGRO THROUGH INTERPRETER: Colima.

3 DEPUTY COMMISSIONER BLONIEN: Near Manzanillo? Very
4 nice, where the volcanoes are. Very nice. And what
5 would you do for work?

6 INMATE MONTENEGRO THROUGH INTERPRETER: My thoughts
7 are if I'm released one day is go plant corn, and also
8 raise cattle.

9 DEPUTY COMMISSIONER BLONIEN: Where would you get
10 the cattle?

11 INMATE MONTENEGRO THROUGH INTERPRETER: I would buy
12 them.

13 DEPUTY COMMISSIONER BLONIEN: You have a lot of
14 money?

15 INMATE MONTENEGRO THROUGH INTERPRETER: I don't, but
16 I can by working.

17 DEPUTY COMMISSIONER BLONIEN: So do you understand
18 that if we parole you, we need a letter from your family
19 saying that you can live there, that they will help you
20 live until you can get a job, that there are job
21 opportunities there for you, and that their support for
22 you -- because after you've been in prison a long time,
23 to be free you need support to be successful. Do you
24 understand that?

25 INMATE MONTENEGRO THROUGH INTERPRETER: Yes.

26 DEPUTY COMMISSIONER BLONIEN: And if by chance the
27 U.S./INS hold doesn't materialize, where would you live

1 in California?

2 INMATE MONTENEGRO THROUGH INTERPRETER: I have an
3 aunt who I (inaudible). She would give me a place to
4 work and a place to stay.

5 DEPUTY COMMISSIONER BLONIEN: And where does she
6 live?

7 INMATE MONTENEGRO THROUGH INTERPRETER: Santa Maria.

8 DEPUTY COMMISSIONER BLONIEN: So you would need, you
9 know, a letter from her, saying that you could live
10 there, that she'll help you find work, that she'll give
11 you money until you find work. How old are you now?

12 INMATE MONTENEGRO THROUGH INTERPRETER: Fifty.

13 DEPUTY COMMISSIONER BLONIEN: Okay. So you're still
14 a young man, and when you do get out, you'll be able to
15 work. But you'll have to have all this in order. This
16 is your responsibility, because we can't just say we
17 think he's going to Mexico, we have to have
18 verification. And it's a hard job for you to get that
19 verification, so you have to start work on it right
20 away. And then in terms of what you do in the
21 institution, you have to do more. You were given a
22 sentence of life with a possibility of parole, and you
23 have to earn your way out of here. And the way you do
24 it is you work really hard, which you do; you don't get
25 any 115s or 128s, which you're good at; and you go to
26 programs that help you when you're released to make the
27 right decisions. And then you come to Board and you

1 tell us what you've been doing, or you have chronos in
2 your file. So just going to AA is good, but it's not
3 enough. Do you have a question?

4 **INMATE MONTENEGRO TRHOUGH INTERPRETER:** What other
5 programs do you recommend?

6 **DEPUTY COMMISSIONER BLONIEN:** Well, you have to go
7 out there and see what's available. You talk to all the
8 other inmates that are in your situation that don't
9 speak English so well. I've been here and those inmates
10 do get dates, and you have to ask them what's caused
11 them to be successful. And it's different for every
12 inmate. If I tell you what to do, that's not you making
13 your decision to get you out. But there, there are
14 things out there, and you have the ability to do well.
15 So I hope you'll do that. We also sent out notices to
16 local law enforcement and interested parties, and
17 although I didn't receive any letters, the District
18 Attorney from southwestern Santa Barbara is represented,
19 and at the appropriate time, he will be able to ask you
20 questions and/or make a closing statement. And with
21 that I return to the Chairperson.

22 **PRESIDING COMMISSIONER DAVIS:** All right, thank you.
23 Mr. Montenegro, if we can just try this from a different
24 perspective perhaps, is there one of the steps that
25 you've been working on that you think about or that you
26 find especially appropriate for you?

27 **INMATE MONTENEGRO TRHOUGH INTERPRETER:** One of the

1 things I like to do is like a (inaudible) hobby card,
2 but they denied it.

3 PRESIDING COMMISSIONER DAVIS: Okay. With regard to
4 the Alcoholics Anonymous --

5 DEPUTY COMMISSIONER BLONIEN: I need to turn the
6 tape over.

7 [Whereupon, the tape was turned over.]

8 PRESIDING COMMISSIONER DAVIS: With regard to
9 Alcoholics Anonymous, is there one of the steps that,
10 that you have been listening to, that you think is
11 especially helpful for you?

12 INMATE MONTENEGRO THROUGH INTERPRETER: I don't
13 remember any of them because most of the time
14 (inaudible).

15 PRESIDING COMMISSIONER DAVIS: Okay. That may be
16 something that I think you were -- you were given some
17 good advice earlier by, by Commissioner Blonien, and I
18 think that if you want to also follow-up with that idea
19 of maybe committing some of these steps to, maybe not
20 verbatim, but a good understanding of what they mean for
21 you in terms of the crimes, your feeling of remorse for
22 the victim, things that you can, that you can take an
23 active step in, would be helpful for you. All right.
24 Commissioner Blonien, any other questions?

25 DEPUTY COMMISSIONER BLONIEN: I don't.

26 PRESIDING COMMISSIONER DAVIS: All right. Does the
27 District Attorney have questions?

1 **ATTORNEY CUTLER:** I do not.

2 **PRESIDING COMMISSIONER DAVIS:** Mr. Sparks?

3 **ATTORNEY SPARKS:** No, thank you.

4 **PRESIDING COMMISSIONER DAVIS:** Closing then?

5 **ATTORNEY CUTLER:** Just briefly, this was an
6 extremely stupid case, the only thought he demonstrated
7 was his ability to escape. Now that the Commissioner
8 has quietly eviscerated his plans, i.e., she's exposed
9 the fact that he has modest vocational abilities, albeit
10 a good work ethic; he has modest employment skills;
11 limited employment opportunities, if any; he hasn't
12 taken advantage of the AA program; he has limited
13 literacy; and the picture is painted very grim for a man
14 who, however he wound up in Mexico or found his way back
15 to Santa Maria, could very well find himself back at the
16 dives on Bloosser Street in Santa Maria and committing
17 the same sort of crime that got him in here. I ask that
18 you deny his request. Submitted.

19 **PRESIDING COMMISSIONER DAVIS:** All right, thank you.
20 Mr. Sparks.

21 **ATTORNEY SPARKS:** To his credit, Mr. Montenegro has
22 completed some AA, he does have some contact with the
23 country of origin where deportation is eminent, so the
24 requirement that he complete some form of GED would be
25 nice, but perhaps either unrealistic because of his
26 motivation or unnecessary because of the status that he
27 would have as a foreign citizen. Learning U.S. History

1 may not be something relevant for purposes of his status
2 as a foreign national. I understand the Board of Parole
3 Hearings would like to see somebody become all they can
4 be while they're incarcerated -- he was pleasant with
5 the Panel today. He's grown and matured while he's been
6 incarcerated. He's only had one 115 recently, and that
7 was nonviolent. The correctional counselor's report in
8 '02 deemed him to be a low threat. That must mean that
9 he's doing some of the things, institutionally, that
10 would show that he would be a good citizen if released
11 to the community, because he's been a good citizen while
12 incarcerated. This was, in my opinion, an unfortunate
13 set of circumstances that was aggravated by alcohol use
14 and would not likely happen again, particularly if
15 Mr. Montenegro abstained from the use of alcohol. He's
16 talked about his plan of recovery, and has indicated
17 that that's not something he's interested in. And he
18 does have employable skills from institutional work.
19 I'll submit it with that. Thank you.

20 **PRESIDING COMMISSIONER DAVIS:** All right, thank you.
21 Mr. Montenegro, now is your opportunity to address the
22 Panel directly and talk to us about your suitability for
23 parole.

24 **INMATE MONTENEGRO THROUGH INTERPRETER:** Talk to you
25 about what?

26 **PRESIDING COMMISSIONER DAVIS:** About why you feel
27 that you're suitable for a parole.

32

1 INMATE MONTENEGRO THROUGH INTERPRETER: (Inaudible)
2 if I were to be released, I would go to Mexico and work
3 at a ranch down there.

4 PRESIDING COMMISSIONER DAVIS: Is that all, sir?

5 INMATE MONTENEGRO THROUGH INTERPRETER: Yes.

6 PRESIDING COMMISSIONER DAVIS: All right, thank you
7 very much. We will now recess for deliberations.

8 R E C E S S

9 --oOo--

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

CALIFORNIA BOARD OF PAROLE HEARINGS

D E C I S I O N

DEPUTY COMMISSIONER BLONIEN: We're on record.

PRESIDING COMMISSIONER DAVIS: I want the record to reflect that all those previously identified as being in the room have returned. And this is in the matter of Santiago Montenegro, CDC number H-55090. The Panel reviewed all information received from the public and relied on the following circumstances in concluding that the prisoner is not suitable for a parole and would pose an unreasonable risk to society or a threat to public safety if released from prison. We have come to this conclusion first by the commitment offense: The offense was carried out in an especially callous manner, and the motive for the offense was very trivial in relation to the offense. The conclusion, and these conclusions are drawn from the statement of facts, wherein the prisoner was convicted of the senseless death by use of a firearm of the victim. We find that there is no previous record. With regard to institutional behavior, we find that you have programmed in a limited manner while incarcerated, that you have seven 128(a) counseling chronos, the last of which was in 3 of '05, and one serious 115 disciplinary report, the last of which was -- the only, actually -- occurred in 3 of '02. The psychological report of March 2002 by Dr. Garmard was

1 supportive, but is dated and does not consider the most
2 recent 115 disciplinary report. With regard to parole
3 plans, we find that you do not have viable residential
4 plans in either the United States or Mexico, and do not
5 have acceptable employment plans in either the United
6 States or Mexico. With regard to the 3042 notices, we
7 note that the District Attorney from Santa Barbara
8 County is here in person by representative, and does
9 oppose parole. Nevertheless, we do want to commend you
10 for your attendance in AA in Spanish and your -- and
11 again, your attendance there -- and your work as a
12 Porter and in Waste Management with excellent work
13 reports for being on time, respectful to staff and
14 inmates. However, these positive aspects of behavior do
15 not outweigh the factors for unsuitability. And in a
16 separate decision, the Hearing Panel finds that you have
17 been convicted of murder, and it is not reasonable to
18 expect that parole would be granted during the next
19 three years. We come to this conclusion first by the
20 commitment offense itself, in that the offense was
21 carried out in an especially callous manner. The motive
22 for the crime was very trivial in relation to your
23 offense. These conclusions are drawn from the statement
24 of facts wherein the prisoner was convicted of the
25 senseless death by use of a firearm of the victim, that
26 you have programmed in a limited manner while

1 incarcerated. Disciplinaries while incarcerated
2 includes seven 128(a)s, the last of which was in 3 of
3 '05, and one serious 115 disciplinary report, the last
4 that occurred in 3 of '02. The psychological report of
5 March 2002 by Dr. Garmard was supportive, but dated, and
6 does not consider the most recent 115. With regard to
7 parole plans, we find that you do not have viable plans
8 for the United States or Mexico, and do not have
9 acceptable employment plans for the United States or
10 Mexico. With regard to 3042 notices, we note that the
11 District Attorney from Santa Barbara County is here in
12 person by representative and does oppose parole. With
13 regard to recommendations, the Panel recommends that you
14 have no more 128s or 115s, and as available, that you
15 upgrade vocationally and educationally. And in terms of
16 education, one of the things we want to recommend to you
17 is that you use your time to, as available, to
18 participate in programs that will help you with your
19 reading or being, with your comprehension, your ability
20 to retain what you read. Work on things that have to do
21 with your AA or that you can begin to assimilate or
22 remember those steps so that you can use those in your
23 day to day decision-making process and can come to a
24 future panel where you can discuss how the, what you
25 have learned, either in your AA or in anger management.
26 Certainly this Panel is not here to offer or to promote
27 S. MONTENEGRO H-55090 DECISION PAGE 3 8/16/06

36

1 one program over another, but any other programs that
2 you do participate in -- that you would be able to come
3 to a Panel and be able to talk to that Panel about what
4 you've learned and how that has made a difference in
5 your decision-making and how that will keep you from
6 committing any types of crimes. When you do ultimately
7 receive a date -- and as available, that you participate
8 in self-help, and that you continue to earn positive
9 chronos. And the Panel has recommended that a new
10 psychological report be completed, and that as part of
11 that report that they also review your ability to learn
12 and retain information. Commissioner, is there anything
13 you would like to add?

14 **DEPUTY COMMISSIONER BLONIEN:** Yes, you're going to
15 get a copy of this Board decision. You have one of your
16 friends read it to you. And you concentrate on what you
17 said to this Panel. And do a better job. Good luck.

18 **PRESIDING COMMISSIONER DAVIS:** All right. We wish
19 you the best of luck, sir. We are adjourned.

20 ---o0o---

21

22

23 **PAROLE DENIED THREE YEARS**

DEC 14 2006

24 **THIS DECISION WILL BE FINAL ON: _____**

25 **YOU WILL BE PROMPTLY NOTIFIED IF, PRIOR TO THAT**
26 **DATE, THE DECISION IS MODIFIED.**

27 **S. MONTENEGRO H-55090 DECISION PAGE 4 8/16/06**

CERTIFICATE AND
DECLARATION OF TRANSCRIBER

I, Don Larson, a duly designated transcriber, VINE, MCKINNON & HALL, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 - 36, and which recording was duly recorded at CORRECTIONAL TRAINING FACILITY, at SOLEDAD, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING of SANTIAGO MONTENEGRO, CDC No. H-55090, on AUGUST 16, 2006, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape(s) to the best of my ability.

I hereby certify that I am a disinterested party in the above-mentioned matter and have no interest in the outcome of the hearing.

Dated NOVEMBER 10, 2006, at Sacramento County, California.



Don Larson
Transcriber
VINE, MCKINNON & HALL

EXHIBIT 2



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA

PLAINTIFF:
THE PEOPLE OF THE STATE OF CALIFORNIA
DEFENDANT:
SANTIAGO MONTENEGRO*
TYPE OF REPORT:
PRESENTENCE REPORT

FOR COURT USE ONLY

Address:

Santa Barbara County Jail

Hearing Date:

October 30, 1992,
8:30 A.M.

Action #:

SM-73867

Dept.:	Judge:	Defense Attorney:	Probation Officer:	Area Office:
I	Zel Canter	David Ogren, PD	Kathleen Nunes	Santa Maria

Arresting Agency:	Bail/OR/Custody:	Days Custody:	Guilty By:
SMPD (09/04/91)	Custody	423 days (09/04/91 to 10/30/92)	Jury

Drivers Lic. #/State:	SSN:	CII No.:	FBI No.:
N2683242/CA (suspended)	457-57-7887	A09905388	285209PA2

DOB:	POB:	Height:	Weight:	Hair:	Eyes:
02/02/56;	Mexico	5'8"	145 lbs.	Brown	Brown
09/18/64	Citizenship: Mexico				

Race:	Scars/Tattoos:
Hispanic	Tattoos: "MLL" right forearm

Veh. Lic. #/State:	Veh. Year:	Make:	Model:	Style:	Color:
None					

Charged With:

187(a) PC (MURDER), a felony.

Enhancements Alleged: 1203.06(a)(1) PC (PERSONAL USE OF A FIREARM), a felony; 12022.5 PC (USE OF A FIREARM), a felony.

Convicted Of:

187(a) PC (MURDER), a felony.

Enhancements Found True: 1203.06(a)(1) PC (PERSONAL USE OF A FIREARM), a felony; 12022.5 PC (USE OF A FIREARM), a felony.

Co-Defendant(s):

Disposition:

N/A

Plea Agreement: None

: Antonio Mora; Antonio Tijerena; Zefe Portillo; Ruben Acosta; Juan Ruiz Amaro; Antonio Martinez; Carmelo Sosa; Sergio Garcia; Mobis Martinez

1 THE OFFENSE:

2 Sources of Information:

3 Santa Maria Police Department Report #636392.

4 On November 13, 1985, Santa
5 Maria Police Officers responded to El Conquistador Bar, 210 S.
6 Blosser, Santa Maria, to investigate a shooting. Officers found
7 Antonio Hernandez Cardona, age 22, slumped in the right front
8 passenger seat of an automobile. Officers observed a gun shot
9 wound in the front of his neck, an ambulance was called and he
10 was taken to Marian Medical Center where he died at 2315 hours.
11 Doctors concluded the victim died as a result of a gun shot
12 wound to the anterior neck/chest, exiting through the back. A
13 second entry wound in the left shoulder revealed a .44 caliber
14 bullet. The victim was shot three times.

15 Investigation revealed the
16 victim was the alleged boyfriend of Liliana Beltran, and they
17 had been inside the El Conquistador Bar. Ms. Beltran left the
18 bar and went outside to the victim's car. The defendant
19 followed Ms. Beltran out to the car, sat down in the car and
20 tried to kiss her. The victim came out of the bar with two
21 friends, saw what was going on and pulled the defendant out of
22 the car. The victim and defendant verbally argued, the
23 defendant pulled a .44 magnum pistol from his waistband, and
24 fired three or four shots, killing the victim. The defendant
25 fled the area.

26 The defendant told officers
27 upon his arrest, he had hidden in a cardboard box in an alley

28 / / / / / /

1 until day light, had been in Reedley, California, Tijuana,
2 Mexico and for the past two years had been living in Guadalupe.

3 PRIOR RECORD:

4 Sources of Information:

5 Records of CII, FBI and NCIC, DMV, local law enforcement,
6 Santa Barbara County Probation Department.

7 Prior Findings/Convictions:

8 05/08/92 23152b VC (DRIVING UNDER INFLUENCE .08 OR MORE),
9 misdemeanor, #C133546, five years Court
probation, jail. Named used: Santiago Garcia.

10 Additional Arrest Information:

11 None.

12 DEFENDANT'S STATEMENT:

13 On October 15, 1992, this
14 officer interviewed the
15 defendant at the Santa Maria Court Compound. The defendant
16 stated he is innocent of the charge. The defendant advised even
17 though the jury found him guilty, he does not know if he will be
18 sentenced to prison until his sentencing hearing. He told this
19 officer "if" he is sentenced to prison, he would like to be in a
20 prison close to this area so his mother and girlfriend can visit
him.

21 VICTIM'S INFORMATION:

22 Victim's Statement: This officer attempted to telephone
23 Josephine Hernandez, listed as sister
of the victim in the police report. No address available.
24 A message was left on a recorder to call this officer. No
one has called as of this date.

25 Restitution Information: It is respectfully recommended
26 the defendant be ordered to pay a
\$10,000 restitution fine pursuant to Section 1202.4 PC.

27 SOCIAL HISTORY:

28 Sources of Information:

The following information was obtained from the defendant.

arrested
4 Sept 91

1 Family History:

2 Father: Efraín Montenegro was born in Mexico and
3 works in Fresno, CA.

4 Mother: Susana Garcia resides in Guadalupe, CA.

5 Siblings: The defendant has one sister and four
6 brothers residing in Grover City and San
 Luis Obispo, CA.

7 Marital History: The defendant has never been married but
8 has been living for the past two years
 with Lupe Mendoza.

9 Children: None.

10 Education: The defendant completed four to five years of
 school in Mexico.

11 Employment/Financial Status:

12 Employment History: At the time of the defendant's
13 arrest, he was working as a
14 fish filleter at the Old Port Inn Fish Market, Avila
 Beach, CA, earning \$6.00 an hour. He reports he also
 worked in Fresno as a field worker in the grape crop.

15 Assets: None.

16 Debts: None.

17 Monthly Income: None.

18 Monthly Expenses: None.

19 Ability to Pay Fine/Restitution/Probation Fees:

20 The defendant does not indicate what fees he can pay.

21 Military: The defendant has never served in the Armed
22 Forces.

23 Medical History: The defendant states his health is good,
24 he has no disabilities, is not under a
 doctor's care and has never sought mental health
 counseling.

25 Abuse of Alcohol or Controlled Substances:

26 The defendant began drinking at age 19 and drinks four or
27 five beers a day. At times, he does drink hard liquor.
28 The defendant has smoked marijuana, in the past, and denies
 use of any other drugs or narcotics.

1 Other Relevant Information:

2 The defendant does not have legal documentation to reside
3 in the United States.

4 COLLATERAL INFORMATION:

Deputy District Attorney

Steve Plumer submitted the

5 following written statement:

6 "This is a Prop 8 serious felony in which defendant
7 was convicted of murder, 2nd degree with personal use
8 of a firearm per 1203.06 and 12022.5. Mandatory term
9 for 2nd degree + 187 = 15 years. 12022.5 adds .2
10 years. Court has authority to strike the 12022.5 term
11 per 1170(h) if it determines there are circumstances
12 in mitigation and states reasons on the record. We
13 are unaware of any such circumstances and recommend
14 the full sentence of two years for the 12022.5 and 15
15 to life, consecutive."

16 Requests for information
17 were sent to the Deputy Public Defender and Santa Maria Police
18 Department. At the time of this dictation, no response has been
19 received. If one is received prior to the filing deadline, it
20 will be included.

21 EVALUATION:

22 SENTENCING CONSIDERATIONS:

23 The Offense:

24 187(a) PC (MURDER, SECOND DEGREE), a felony

25 Sentencing Range: 15 years to Life

26 Enhancements/Special Allegations Alleged & Found True:

27 12022.5 PC (USE OF A FIREARM), a felony

28 Term: 2 years consecutive

1203.06(a)(1) PC (PERSONAL USE OF A FIREARM), a felony

Term: Mandatory State Prison

/ / / / /

/ / / / /

Designated Sentence Length:

12022.5 PC: 2 years consecutive

187 PC: 15 years to Life

Total Term: 17 years to LifeDiscussion:

The defendant is now before the Court for sentencing on a charge of murder after being found guilty of the offense by a jury trial. Although the defendant was convicted by jury, he still contends he is innocent and does not believe he will be sentenced to prison until his sentencing date this month. Circumstances of the offense indicate the defendant shot the victim in cold blood. The victim was not armed and the alleged dispute over a girlfriend does not justify a crime of this magnitude.

The defendant shows no remorse for his actions and he successfully eluded law enforcement officers for six years before being arrested, although he was living and working in the vicinity of the crime.

It is felt the defendant should be sentenced to State Prison in the consideration of justice and in the interest of protecting society. This is the only consequence justifiable for the crime of murder.

RECOMMENDATION:

It is respectfully recommended that probation be denied and that the defendant be committed to the Department

/ / / / / /

/ / / / / /

/ / / / / /

1 of Corrections for a term of 17 years to Life and ordered to pay
2 a restitution fine in the amount of \$10,000 pursuant to Section
3 1202.4 PC and Section 13967 GC.

4 Respectfully submitted,

5 SUSAN J. GIONFRIDDO
6 CHIEF PROBATION OFFICER

7 Approved for filing:

8 STEPHEN C. GREEN
9 SUPERVISING PROBATION OFFICER

KATHLEEN NUNES
DEPUTY PROBATION OFFICER

10 I have read and considered
11 the foregoing report of the
12 Probation Officer.

13 JUDGE OF THE SUPERIOR COURT

14 KN:dm (montenegro.san)
15 Transcribed: 10/21/92
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 3

MENTAL HEALTH EVALUATION FOR THE BOARD OF PRISON TERMS
(REVISED AUGUST 1998)
PAROLE CONSIDERATION HEARING
JUNE 2002 LIFER CALENDAR

CORRECTIONAL TRAINING FACILITY, SOLEDAD
March 28, 2002

This is the second psychological evaluation for the Board of Prison Terms on inmate Santiago Montenegro, CDC # H-55090. This report is the product of a personal interview conducted on March 28, 2002, as well as a review of his Central file and Unit Health Record. This single contact interview was for the express purpose of preparing this report.

Due to the inmate's limited English, a staff translator assisted with the interview. The inmate was informed of the nature and purpose of the interview and the lack of confidentiality inherent in the present assessment. He was also informed that a report for the Board of Prison Terms would be prepared. He understood this and agreed to participate.

PSYCHOSOCIAL ASSESSMENT

I. IDENTIFYING INFORMATION:

Inmate Montenegro is a 46-year-old single Hispanic male. His stated religious affiliation is Catholic (practicing, attending church occasionally). No unusual physical characteristics were noted. He denied the use of any nicknames or of using any past aliases (such as "Antonio Tijerina", which he used during his job as a fish cutter; "Antonio Mora", which he used during his job at a mushroom farm; or another name listed in his C-file, Santiago Montenegro Garcia).

II. DEVELOPMENTAL HISTORY:

Inmate Montenegro was the third of six in his family, having an older sister, two older brothers and two younger brothers. He was born in Mexico and raised by both parents. He stated there were no prenatal or perinatal concerns, or birth defects. He had no abnormalities of developmental milestones. All speech, language and motor development occurred unremarkably.

MONTENEGRO, SANTIAGO
CDC NUMBER H-55090
BPT MENTAL HEALTH EVALUATION
Page Two

He denied any history of cruelty to animals, or acts of arson. He stated he had no significant childhood medical history, and denied a childhood history of physical or sexual abuse as either a perpetrator or a victim, or sexual aggression.

III. EDUCATIONAL HISTORY:

Inmate Montenegro had about three years of grade school in Mexico.

IV. FAMILY HISTORY:

Inmate Montenegro was born and raised in Mexico and came illegally to the United States in 1979 (at the age of 23) with one of his brothers. His parents are still living. They spend a few months in Mexico and then come to the United States for a few months, and go back and forth, he said. He has regular correspondence with all members of his family.

V. PSYCHOSEXUAL DEVELOPMENT:

Inmate Montenegro states he is a heterosexual male. He denied any history of high-risk sexual behavior or sexual aggression, either prior to or since incarceration.

VI. MARITAL HISTORY:

Inmate Montenegro was never married, but lived with Lupe for a couple of years. He has fathered no children.

VII. MILITARY HISTORY:

Inmate Montenegro denied any military history.

VIII. EMPLOYMENT/INCOME HISTORY:

Inmate Montenegro has worked on ranches as a field worker. During the six years before he was arrested for murder, he worked for two of those years in Mexico on corn plantations, and when he was arrested, he was working as a

MONTENEGRO, SANTIAGO
CDC NUMBER H-55090
BPT MENTAL HEALTH EVALUATION
Page Three

fish cutter at one job, and as a mushroom farm worker on another job. Since incarceration, he has not completed any vocational training, but spent six or seven years in school. Until recently, he worked in the laundry (he explained that he recently lost that job due to difficulties with his supervisor).

IX. SUBSTANCE ABUSE HISTORY:

Inmate Montenegro began drinking beer at age 19, and often would drink 3-4 beers a day. However, he denied drinking to excess, except once when he was arrested for a DUI in the United States. He also reported using marijuana for about 3-4 months only. He stated that the Board of Prison Terms evaluation of January 16, 1996, was incorrect where it stated that he had a history of alcohol and marijuana abuse and continuous use of beer and marijuana from age 18 until he was arrested. He said this might have been a misunderstanding during his interview with the psychologist via a translator.

X. PSYCHIATRIC AND MEDICAL HISTORY:

Inmate Montenegro has no prior diagnoses or serious illnesses other than a tonsillectomy in December of 1998. He has had no medical or psychiatric hospitalizations and has had no serious accidents or head injuries. He has had no history of suicidal ideation or suicide attempts. He has had no seizures or any other neurological condition. He has had no history of disabilities or significant impairments.

He is on no medication at this time.

X. PLANS IF GRANTED RELEASE:

Should inmate Montenegro be given a parole date he states that he would be deported to Mexico where he would live and work with a friend in Colina, Mexico, who would give him a job on a ranch taking care of cattle and planting crops. He stated that his friend wrote a letter to the BPT, which is in his C-file.

MONTENEGRO, SANTIAGO
CDC NUMBER H-55090
BPT MENTAL HEALTH EVALUATION
Page Four

CLINICAL ASSESSMENT

XI. CURRENT MENTAL STATUS/TREATMENT NEEDS:

Inmate Montenegro appears to be his stated age of 46. He was appropriately dressed and groomed. He was coherent, cooperative, calm and alert during interview. His speech was clear and readily understandable. He seemed to have no difficulty understanding any English or Spanish that was spoken during the interview. His affect was normal. His flow of thought was normal with no hallucinations nor delusions noted. He was fully oriented and his intellectual functioning is estimated to be in the above average range. His attention and concentration were adequate for the purposes of this examination. There was no evidence of a mood or thought disorder. His insight and judgment appeared to be intact. He showed good insight into his commitment offense.

CURRENT DIAGNOSTIC IMPRESSIONS:

Axis I: No contributory.
Axis II: No contributory.
Axis III: No contributory.
AXIS IV: Incarceration.
AXIS V: GAF equals 85.

Should this inmate at this time be given a parole or release date his prognosis for maintaining his present gains in the community is excellent.

XII. REVIEW OF LIFE CRIME:

Inmate Montenegro described the circumstances surrounding his commitment offense. He changed his story a number of times. First, when asked what mistake he made that day, he said "Not leaving that area before all that happened" and, "Never going to a place like that". When asked what other mistakes he made that day, he replied that he did not know. He was unable to state the name of the victim, saying he didn't know him. He said, "I don't know how the man died, the report said the man was found in a car." He also claimed that when the man was shot he was in another town: Oceano, California (in the Santa Maria area). When his own

MONTENEGRO, SANTIAGO
CDC NUMBER H-55090
BPT MENTAL HEALTH EVALUATION
Page Five

words were quoted from an early police interview done with a Spanish translator, he then admitted being in the parking lot where the shooting happened, but said, "I was in another town when the shooting happened".

However, when more of his own words were quoted back to him (such as his early admission that the gun was his; that he got the gun out of the trunk of his friends car; that he threw the gun in the grass after the shooting, when he fled the scene), he suddenly admitted shooting the victim. When asked why, he denied that it had to do with jealousy over the woman, but simply said that he shot the victim after the victim made a verbal threat against him.

He then admitted that his mistake was to shoot another man over a verbal threat and said he regrets everything that he did.

He told about how he had lied in the past saying that one friend shot the victim in order to protect the inmate from being shot; or that his other friend, Pedro, was to blame and not him.

This inmate's sudden honesty in the middle of a BPT evaluation was rare, and he is to be commended for taking full responsibility for his actions.

XIII. ASSESSMENT OF DANGEROUSNESS:

- A. This inmate has not received any CDC-115 violations for violent behavior during his entire incarceration of 16 years. He only had one CDC-115, which was on March 6, 2002 for refusing to work. Therefore, it is felt that he would pose a less than average risk for violence when compared with this Level Two inmate population.
- B. If released to the community his violence potential is estimated to be no higher than the average citizen in the community. This is based upon the following considerations: there is no evidence of any previous violent behavior, or violent behavior since his offense. There was no history of prior arrests other than one DUI. Although he did flee the scene of the

MONTENEGRO, SANTIAGO
CDC NUMBER H-55090
BPT MENTAL HEALTH EVALUATION
Page Six

crime, evaded arrest for six years, and formerly appeared to lack remorse for his crime, he has since accepted full responsibility for his offense.

XIV. CLINICIAN OBSERVATIONS/COMMENTS/RECOMMENDATIONS:

- A. This inmate is responsible for his behavior. He has the ability to abide by institutional standards and has done so during his incarceration period.
- B. This inmate has no mental health disorder, which would necessitate treatment either during his incarceration period or following parole.
- C. Since this inmate denies having any alcohol or drug problem, no recommendations are made in this area.

William Gamard, Ph.D.

WILLIAM GAMARD, Ph.D.
Staff Psychologist
Correctional Training Facility, Soledad

B. Zika, Ph.D.

B. ZIKA, Ph.D.
Supervising Senior Psychologist
CTF-Soledad

WG/lrr

D: 03/28/02
T: 03/29/02

EXHIBIT 4

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA

SANTIAGO MONTENEGRO,
Petitioner on Habeas Corpus,
vs.
BEN CURRY, et al.
Respondent.

Case No.: 1226699

Denial of Petition for Habeas Corpus

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

MAR 15 2007

GARY M. BLAIR, Executive Officer
BY M.N. Rodriguez
M.N. RODRIGUEZ, Deputy Clerk

The court has read and considered the Petition for Writ of Habeas Corpus filed on behalf of Santiago Montenegro, but hereby denies the Petition for failure to state facts on which relief can be granted. (*People v. Swain* (1949) 34 Cal.2d 300, 304). This court is not free to reconsider the "some evidence" standard of review confirmed by the State Supreme Court in *In Re Dannenberg* (2005) 34 Cal.4th 1061. "Some evidence" for the decision of the Board of Prison Terms is found in the circumstances of the underlying life crime, which as compared to other second-degree murders was carried out in an especially callous manner, with use of a firearm, for a trivial reason, and was followed by protracted flight and belated admission of guilt. The Board was appropriately concerned with petitioner's disciplinary history during incarceration and failure to provide viable plans following release, notwithstanding contrary evidence of institutional sobriety, active AA work, and an exemplary work record. The Board also heard from the District Attorney's office in opposition to release. These factors are not immutable in their significance as the Board reconsiders the issue of parole suitability in the future.

DATED: March 15, 2007

James P. Rigali
JAMES RIGALI

Judge of the Superior Court